

fixing a penalty and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and that it being a local bill that it be not printed.

WIRTZ, Chairman.

FORTY-SIXTH DAY.

Senate Chamber,
Austin, Texas,
March 12, 1929.

The Senate met at 9:05 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills Signed.

The Chair, Lieutenant Governor Barry Miller, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills.

S. B. No. 82.	H. C. R. No. 38.
S. B. No. 187.	H. B. No. 439.
S. B. No. 190.	S. B. No. 220.
S. B. No. 254.	S. B. No. 606.
S. B. No. 344.	S. B. No. 479.
S. B. No. 502.	S. B. No. 579.
S. B. No. 503.	H. B. No. 61.
S. B. No. 511.	H. B. No. 62.
S. B. No. 448.	H. B. No. 554.
H. B. No. 735.	H. B. No. 555.
H. B. No. 194.	

Executive Session Set.

On motion of Senator Williamson, the Senate voted to go into executive session Wednesday at 2:00 o'clock p. m. for the purpose of considering nominations by the Governor.

Simple Resolution No. 97.

Senator Love sent up the following resolution:

Be it resolved by the Senate of the State of Texas:

Section 1. The President of the Senate shall appoint a committee of three members of the Senate, whose duty it shall be to immediately investigate the feasibility and cost of having installed in the Senate Chamber radio equipment for broadcasting the proceedings of the Senate, and of making arrangements for such broadcasting to be done at the next session of the Legislature, under plans whereby there shall be one microphone placed at the desk of each Senator, one at the desk of the President of the Senate and one at the desk of the Secretary of the Senate. Said committee shall have authority to make any contract or contracts necessary to comply with this resolution, subject however, to the approval of the Senate, when it shall convene in its next Called Session.

The necessary expenses of the committee incurred in the performance of their duty hereunder, shall be paid out of the Contingent Expense Fund of the Senate.

LOVE.

The resolution was read and lost.

Senator Love moved to reconsider the vote by which the resolution was lost.

Senator Wirtz moved to table the motion. The motion to table was lost by the following vote:

Yeas—9.

Holbrook.	Miller.
Martin.	Parr.

Russek. Wirtz.
Thomason. Witt.
Williamson.

Nays—12.

Berkeley. Love.
Cousins. McFarlane.
DeBerry. Moore.
Greer. Parrish.
Hornsby. Pollard.
Hyer. Stevenson.

Absent.

Beck. Small.
Cunningham. Westbrook.
Gainer. Woodul.
Hardin. Woodward.
Patton.

Absent—Excused.

Neal.

The resolution was lost.

House Bill No. 389.

The Chair laid before the Senate as pending business the motion to print H. B. No. 389 on minority report. The motion prevailed by the following vote:

Yeas—17.

Beck. Patton.
Berkeley. Pollard.
Greer. Small.
Hornsby. Stevenson.
Hyer. Thomason.
Love. Williamson.
Martin. Witt.
Moore. Woodul.
Parrish.

Nays—5.

DeBerry. Miller.
Gainer. Wirtz.
McFarlane.

Absent.

Cousins. Parr.
Cunningham. Russek.
Hardin. Westbrook.
Holbrook. Woodward.

Absent—Excused.

Neal.

House Bill No. 495.

The Chair laid before the Senate as pending business the following bill:

By Mr. Gilbert, Mr. Murphy and Mr. Hubbard:

H. B. No. 495, A bill to be entitled "An Act relating to the registration of motor vehicles, trailers and semi-trailers; prescribing the license fees required for their registration; providing for the distribution and appointment of all license fees collected pursuant to this Act."

The question recurred upon Senator Williamson's amendment.

Senator Wirtz sent up the following substitute for the amendment:

Substitute for Pending Amendment to House Bill No. 495.

Amend Committee Substitute for H. B. No. 495, by striking out all of Section 5, and inserting in lieu thereof the following:

"The annual license fee for the registration of motorcycles shall be \$5.00. The annual license fee for the registration of passenger automobiles shall be based upon the weight of vehicle, as follows:

Wgt. Lbs.	Fee per 100 lbs. or fraction thereof
1 to 2500	\$.25
2501 to 3500	.56
3501 to 4500	.70
4501 and up	.87

WIRTZ.

The substitute was read.

Senator Stevenson moved that further consideration of the pending amendment, the substitute for the amendment, and the bill be indefinitely postponed.

Senator Thomason moved the previous question on the motion to indefinitely postpone, the amendment, the substitute for the amendment, the motion to substitute the Committee substitute for the bill, and the bill itself. The previous question was seconded.

Senator Wirtz called for a division of the question.

Senator Love raised the point of order that a division of the question could not be called for when the previous question was being ordered. The Chair, Lieutenant Governor Barry Miller, overruled the point of order.

The previous question on the motion to indefinitely postpone failed to be ordered by the following vote:

Yeas—11.

Berkeley.	Parrish.
Hyer.	Small.
Love.	Thomason.
Martin.	Witt.
McFarlane.	Woodward.
Moore.	

Nays—17.

Beck.	Parr.
Cousins.	Pollard.
Cunningham.	Russek.
DeBerry.	Stevenson.
Gainer.	Westbrook.
Greer.	Williamson.
Hardin.	Wirtz.
Holbrook.	Woodul.
Hornsby.	

Absent.

Miller.	Patton.
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Absent—Excused.

Neal.

The previous question on the substitute for the amendment failed to be ordered.

The previous question on the amendment failed to be ordered.

The previous question on the motion to substitute the Committee bill for the original bill failed to be ordered.

The previous question on the bill itself failed to be ordered.

The question recurred upon the motion to indefinitely postpone.

Senator Love moved the previous question on the motion to postpone. The motion prevailed by the following vote:

Yeas—15.

Berkeley.	McFarlane.
Cunningham.	Parrish.
DeBerry.	Small.
Gainer.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Woodward.
Martin.	

Nays—11.

Beck.	Russek.
Cousins.	Stevenson.
Greer.	Wirtz.
Miller.	Witt.
Parr.	Woodul.
Pollard.	

Absent.

Hardin.	Moore.
Holbrook.	Patton.

Absent—Excused.

Neal.

Messages from the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,
Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the report of the Free Conference Committee on H. B. No. 654 by a vote of 106 yeas and 3 nays.

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 121, A bill to be entitled "An Act imposing an occupation tax on any person, company, corporation or association owning, operating, managing or controlling any cotton exchange quotation service or furnishing quotations on the stock market on grain, cotton and other commodities."

By Senator Holbrook:

S. B. No. 191, A bill to be entitled "An Act providing for the separation of all public free school affairs in cities or towns from the municipal government therein; providing that all the power and authority over such schools shall be exercised by such cities or towns through their boards of education; providing for the election of trustees of the independent districts authorized herein; vesting the title to school property of such cities and towns in the independent district; authorizing the independent districts to assume outstanding bonds of cities and towns issued for school purposes; repealing all laws and parts of laws in conflict with the provisions of this Act, and declaring an emergency."

With amendments.

By Senator Greer:

S. B. No. 536, A bill to be entitled

"An Act providing for a rural school supervisor in certain counties in lieu of teachers' institutes; prescribing the duties of said supervisor; providing for visits to schools of the county and work in co-operation with teachers; prescribing the salary of said supervisor and how it shall be paid; providing other things incidental to said purpose; and declaring an emergency."

With amendments.

By Senator DeBerry:

S. B. No. 579, A bill to be entitled "An Act repealing certain Sections of the local road law of Franklin County, Texas; amending Sections 8 and 10 of said local road law; said local road law and this Act relating to the public roads of said county and regulating the construction and maintenance of same; and declaring an emergency."

By Senator Small:

S. B. No. 606, A bill to be entitled "An Act ratifying and validating the creation and consolidation proceedings creating Carey Consolidated Rural High School District No. Ten of Childress county, Texas, by consolidating Purple Hill Common School District No. 14, Prairie Hill Common School District No. 4, Carey Common School District No. 10 and Valley View Common School District No. 28, all in Childress county, Texas; ratifying and validating all orders, petitions, notices, elections, orders declaring result of elections and describing the boundaries of such consolidated rural high school district; validating election and election proceedings held on the 6th day of February, 1929 in such consolidated district; authorizing the issuance of Sixty Thousand Dollars schoolhouse bonds and levying a tax in payment thereof, including the petition, orders, notices, election, election returns and authorizing the Board of Trustees to complete the issuance and sale of such bonds; and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

S. C. R. No. 46.

Senator Parrish sent up the following resolution:

Providing for a legislative committee to investigate and report to the legislature in reference to

amounts earned and retained by officers of this State who are paid in fees, or partly in fees.

Whereas, Many officers in this State are paid upon a fee basis in whole or in part; and

Whereas, In some instances the law fixes a maximum which may be retained by particular officers out of fees of office and in other cases the law is uncertain and it is difficult to ascertain what the maximum is; and

Whereas, At various places in the statutes prescribing fees the law permits such fees or a portion of same to be retained without the necessity of the officer accounting for same as fees of office; and

Whereas, It cannot be ascertained without great difficulty how much each officer earns, or is entitled to under the law; and

Whereas, Some of the officers in this State are making huge sums in fees out of proportion to the amount of work performed, and also out of proportion to salaries provided for other officers in the State, said condition resulting from the fact that many fees of office may be retained without accounting for same within the maximum fee bill; and

Whereas, It is necessary for the Legislature to have information on this subject in order that it may intelligently consider and enact proper laws governing the subject; now therefore Be it resolved by the Senate of the State of Texas, The House of Representatives concurring:

Section 1. A committee shall be appointed consisting of one member of the Senate to be appointed by the President of the Senate, and two members of the House to be appointed by the Speaker of the House for the purpose of making an investigation in reference to fees of office of officers in this State who are paid in fees either in whole or in part, and to ascertain and report on the amounts earned by various officers paid on such basis and how much they retained out of fees of office or other compensation where they receive fees only in part.

Section 2. Said Committee shall make such investigation between the adjournment of the Regular Session of the 41st Legislature and the convening of the First Called Session of said Legislature and shall make

a report to the Legislature at said Special Session. Said report shall contain the information gathered by said Committee together with its findings and recommendations as to any measures that should be enacted by the Legislature in reference to same.

Sec. 3. Said Committee shall have free access to all books and records of county officers or other officers in this State in order to obtain information necessary under this resolution. Said Committee shall have power to subpoena witnesses to appear before it at any time or place it shall decide and furnish to it such information as such witnesses have, and issue subpoena for records, books, papers and other documents and to swear said witnesses; to reduce testimony to writing or type-writing, and to pay said witnesses the fees paid them in criminal cases in the district court. Said committee shall also have power to require from all persons, firms and corporations in this State such information as it may desire with reference to the subject matter of this resolution. Said Committee shall have power to issue such process as is necessary to compel the attendance of witnesses or the production of books, records or other information as may be desired by said Committee in the proper discharge of its duties.

Sec. 4. Said Committee shall be entitled to reimbursements of expenses actually incurred in the performance of their duties under this resolution, the same to be paid out of the fund appropriated for contingent expenses of the Legislature. Said Committee shall also have authority to employ one stenographer, if necessary.

The resolution was read.

Senator Woodul sent up the following amendment:

Amend resolution by adding where appropriate, the following:

"The County of Harris shall be excepted from the provisions hereof."

WOODUL.

The amendment was read.

Senator Parrish moved to table the amendment. The motion prevailed.

The resolution was adopted.

Recess.

Senator McFarlane moved to recess until 1:30 o'clock p. m.

Senator Pollard moved to recess until 2:00 o'clock p. m. The motion prevailed and at 12:07 o'clock p. m., the Senate recessed.

After Recess.

The Senate met at 2:00 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Barry Miller.

House Bill No. 495.

The question recurred on the motion to postpone indefinitely further consideration of H. B. No. 495.

Senator Berkeley moved at 2:30 o'clock p. m., that the Senate begin voting on this bill at 2:40 o'clock. The Chair held that the motion was cut of order.

Senator Miller rose to a point of personal privilege.

Senator Love raised the point of order that the previous question had been ordered and could not be interrupted by a point of personal privilege.

The Chair, Lieutenant Governor Barry Miller, sustained the point of order.

Senator Stevenson announced that he yielded the right to close the debate to Senator Woodul.

Senator DeBerry asked if such action was parliamentary. The Chair stated that it was, under the Senate rules.

The motion to indefinitely postpone the further consideration of the bill was lost by the following vote:

Yeas—8.

Beck.	Parr.
Cousins.	Stevenson.
Greer.	Wirtz.
Holbrook.	Woodul.

Nays—19.

Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Hornsby.	Small.
Hyer.	Thomason.
Love.	Westbrook.
Martin.	Williamson.
McFarlane.	Woodward.
Miller.	

Absent—Excused.

Hardin.	Neal.
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(Pairs Recorded.)

Senator Witt (present), who

would vote yea with Senator Moore (absent), who would vote nay.

The question recurred upon the adoption of the substitute for the amendment.

Senator Love moved the previous question on the pending substitute for the amendment. The previous question was ordered.

The substitute was lost by the following vote:

Yeas—12.

Beck.	Patton.
Cousins.	Pollard.
Greer.	Russek.
Holbrook.	Stevenson.
Miller.	Witt.
Parr.	Woodul.

Nays—16.

Berkeley.	Martin.
Cunningham.	McFarlane.
DeBerry.	Parrish.
Gainer.	Small.
Hardin.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Woodward.

Absent—Excused.

Neal.

(Pairs Recorded.)

Senator Witt (present), who would vote yea with Senator Moore (absent), who would vote nay.

Senator Williamson withdrew his amendment.

Senator Pollard sent up the following amendments:

Amend C. S. H. B. No. 495, Senate Journal, page 1271, section 9, by striking out \$15,000.00 and inserting in lieu thereof "\$50,000.00."

POLLARD,
BECK.

Amend C. S. H. B. No. 495, section 9, page 1271 Senate Journal, by striking out the following: "thereafter, and until the amount so deposited for the year shall have reached a total of \$150,000.00, he shall deposit to the credit of said fund on Monday of each week an amount equal to 50 per cent of net collections made hereunder during the preceding week."

POLLARD,
BECK.

The amendments were read.

Senator Love moved the previous question on the amendments, the Committee substitute, and the bill.

Senator Wirtz called for a division of the question.

The previous question on the amendments was ordered.

The previous question on the Committee substitute was ordered.

The previous question on the bill failed to be ordered by the following vote:

Yeas—13.

Berkeley.	McFarlane.
Gainer.	Parrish.
Hardin.	Small.
Hornsby.	Thomason.
Hyer.	Williamson.
Love.	Woodward.
Martin.	

Nays—15.

Beck.	Pollard.
Cousins.	Russek.
DeBerry.	Stevenson.
Greer.	Westbrook.
Holbrook.	Wirtz.
Miller.	Witt.
Parr.	Woodul.
Patton.	

Absent.

Cunningham. Moore.

Absent—Excused.

Neal.

The first amendment was lost by the following vote:

Yeas—13.

Beck.	Patton.
Cousins.	Pollard.
Cunningham.	Russek.
Greer.	Wirtz.
Holbrook.	Witt.
Miller.	Woodul.
Parr.	

Nays—14.

Berkeley.	McFarlane.
DeBerry.	Moore.
Gainer.	Parrish.
Hardin.	Small.
Hornsby.	Thomason.
Hyer.	Williamson.
Love.	Woodward.

Absent.

Martin. Westbrook.
Stevenson.

Absent—Excused.

Neal.

The second amendment was lost by the following vote:

Yeas—10.

Beck.	Patton.
Cousins.	Pollard.
Cunningham.	Russek.
Holbrook.	Wirtz.
Parr.	Woodul.

Nays—16.

Berkeley.	Miller.
DeBerry.	Moore.
Greer.	Parrish.
Hardin.	Small.
Hornsby.	Thomason.
Hyer.	Williamson.
Love.	Witt.
McFarlane.	Woodward.

Absent.

Gainer.	Stevenson.
Martin.	Westbrook.

Absent—Excused.

Neal.

Senator Woodul called for a full reading of the Committee substitute. The Secretary began reading.

Senator Woodward moved that the further reading of the bill be dispensed with.

Senator Wirtz raised the point of order that such a motion was out of order. The Chair sustained the point of order.

Senator Greer moved to recess until 8:00 o'clock p. m.

Senator Love raised the point of order that this motion was out of order while the Senate was acting under the previous question.

The Chair held that the Senate could adjourn but could not recess while acting under special order.

The Committee substitute was lost.

The question recurred upon the bill.

Senator Pollard sent up the following amendment:

Amend H. B. No. 495 by striking out the second paragraph of Section 10, page 1266 of the Senate Journal, reading as follows:

"Thereafter, and until the amount so deposited for the year shall have reached a total of \$300,000.00 he shall deposit to the credit of said Fund on Monday of each week an amount equal to 50 per cent of col-

lections made hereunder during the preceding week."

POLLARD,
BECK.

The amendment was read.

Senator Love moved the previous question on the amendment and the engrossment of the bill. The previous question was ordered.

Senator Stevenson moved to adjourn until 10:00 o'clock tomorrow morning. The motion was lost.

The amendment to the bill was lost by the following vote:

Yeas—10.

Beck.	Pollard.
Cousins.	Russek.
Greer.	Stevenson.
Holbrook.	Wirtz.
Patton.	Woodul.

Nays—16.

Berkeley.	Martin.
Cunningham.	McFarlane.
DeBerry.	Miller.
Gainer.	Small.
Hardin.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Woodward.

Absent—Excused.

Neal.

(Pairs Recorded.)

Senator Parr (present) who would vote yea with Senator Parrish (absent), who would vote nay.

Senator Witt (present), who would vote yea with Senator Moore (absent), who would vote nay.

The bill passed to third reading by the following vote:

Yeas—19.

Berkeley.	Miller.
Cunningham.	Pollard.
DeBerry.	Russek.
Gainer.	Small.
Hardin.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Witt.
Martin.	Woodward.
McFarlane.	

Nays—8.

Beck.	Patton.
Cousins.	Stevenson.
Greer.	Wirtz.
Holbrook.	Woodul.

Absent.

Moore.

Absent—Excused.

Neal.

(Pairs Recorded).

Senator Parr (present) who would vote nay with Senator Parrish (absent), who would vote yea.

The motion of Senator Williamson that the constitutional rule requiring bills to be read on three several days be suspended and H. B. No. 495 be put on its third reading and final passage was lost by the following vote:

Yeas—19.

Berkeley.	McFarlane,
Cousins.	Miller.
Cunningham.	Parrish.
DeBerry.	Pollard.
Gainer.	Small.
Hardin.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Woodward.
Martin.	

Nays—10.

Beck.	Russek.
Greer.	Stevenson.
Holbrook.	Wirtz.
Parr.	Witt.
Patton.	Woodul.

Absent.

Moore.

Absent—Excused.

Neal.

Senator Love moved to make this bill special order tomorrow morning at 9:00 o'clock.

Senator Wirtz raised the point of order that this was Senate bill day and that the House bill could not be taken up and set as special order except by two-thirds vote. The Chair sustained the point of order.

Senator Love moved to suspend the regular order and make this special order for tomorrow after the morning call.

The Chair pointed out that as this bill was the only House bill on third reading it would automatically come first on the calendar since tomorrow (Wednesday) was House bill day.

Senator Love withdrew his motion.

House Bill No. 314.

The Chair laid before the Senate on second reading the following bill:

By Mr. McCombs:

H. B. No. 314, A bill to be entitled "An Act adding Article 3202a, changing the name of the Deaf and Dumb Asylum to Texas School for the Deaf, etc., and declaring an emergency."

The Committee report carrying amendment was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Woodul the constitutional rule requiring bills to be read on three several days was suspended and H. B. 314 was put on its third reading and final passage, by the following vote:

Yeas—30.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard..
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—30.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

Motion to Reconsider.

Senator Woodul moved to reconsider the vote by which the Free Conference Committee report on H. B. No. 313 was adopted. The motion prevailed.

Senator Woodul sent up the following corrected Free Conference Committee report:

Committee Room,

Austin, Texas, March 8, 1929.

Hon. Barry Miller, President of the Senate, and

Hon. Fred H. Minor, Speaker Pro Tem, House of Representatives.

Sirs: We, your Conference Committee on House Bill No. 313, have had the same under consideration and have adjusted the difference between the House and the Senate and recommend the passage of the following substitute bill:

By Sanders. F. C. C. S. S. B. No. 313

A BILL

To Be Entitled

An Act declaring the wild beaver, wild otter, wild mink, wild ringtail cat, wild badger, wild polecat, or skunk, wild raccoon, wild fox and wild civet-cat to be fur-bearing animals; making it unlawful to take or have in possession any pelt of any fur-bearing animal at any time other than from November 30th to February 1st; providing, however, pelts taken during the open season therefor may be possessed an additional ten days after January 31st; providing that it shall be unlawful for any person at any time to take or kill by trap, snare, deadfall, or any mechanical device any fur-bearing animal in any of the counties to which this Act applies; providing this Act shall not prevent an owner, nor any of his family, killing any of said animals within one hundred feet of his residence or outhouse thereabout by any means whatever, while said fur-bearing animals are depredating upon his property, but prohibiting buying or selling said animals or pelts when taken for said reason; at any time other than from November 30th to February 1st;

providing this Act shall not apply to wolf trappers employed by the United States Government, the State of Texas or the Commissioners' Court of the counties included in this Act from trapping Wolves by setting their traps other and elsewhere than in trails, paths, roads and on logs or within ten feet thereof, nor to taking of said animals, within the bounds of State Game Preserves located in any of the counties to which this Act applies when taken under the Game, Fish and Oyster Commissioner's direction and for use of said department; providing this Act shall apply only in the following counties, viz., Cherokee, Lee, Callahan, Eastland, Caldwell, Angelina, Hardin, Harris, Nacogdoches, Panola, Polk, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Williamson, Bexar, Liberty, Fort Bend, Brazoria, Matagorda, Anderson, Sabine, Llano, Lamar, Madison, Johnson, McLennan, Rusk, Tarrant and Young; providing said animals may be possessed in said counties from propagation and fur farming purposes under permit from Game, Fish and Oyster Commissioner; providing for forfeiture of said permits; providing a penalty, repealing all laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. For the purpose of this Act, wild beaver, wild otter, wild mink, wild ringtail cat, wild badger, wild polecat, or skunk, wild raccoon, wild fox and wild civet cat are hereby declared to be fur-bearing animals.

Sec. 2. It shall be unlawful to take or have in possession any of the fur-bearing animals mentioned in Section 1 of this Act, or the pelts thereof, other than from November 30th, to February 1st of each year; provided, however, that any pelts taken during the open season provided herein may be possessed for the purpose of sale for an additional ten days next after the open season each year; provided, however, that nothing in this Act shall permit the sale or taking for the purpose of barter or sale, pelts of wild

fox in any of the counties in which this Act applies.

Sec. 3. It shall be unlawful at any time for any person to take or kill by trap, snare, deadfall, or any mechanical device any of the fur-bearing animals named in Section 1 of this Act in any of the counties to which this Act applies; providing, however, it shall be lawful for any owner, or any member of his family to kill by any means and at any time within a distance of one hundred feet of his residence, and the out-houses thereabout, any of the said fur-bearing animals while depredating upon the property of said owner, but neither the animals, nor the pelts thereof so killed shall be bought, sold or possessed at any time other than from November 30th to February 1st. And provided further, this Section shall not apply to a trapper employed by the United States Government, the State of Texas or the Commissioners' Court of any county to which this Act applies, bona fide trapping for wolves and setting his traps therefor other and elsewhere than in trails, paths, roads, on logs and no closer thereto than ten feet; nor to the taking of said fur-bearing animals, under the direction of the Game, Fish and Oyster Commissioner within the bounds of any State Game Preserve now located, or which may be located within the counties to which the provisions of this Act applies when such taking is done for the use of the Game, Fish, and Oyster Department of Texas.

Sec. 4. It shall be unlawful for any person at any time or in any manner to have in his possession any wild beaver, wild otter, or wild fox, or the pelt or pelts thereof, excepting as permitted under this Act.

Sec. 5. That for the purpose of this Act the foregoing provisions shall apply only in the following counties: Cherokee, Lee, Callahan, Eastland, Caldwell, Panola, Angelina, Hardin, Harris, Nacogdoches, Polk, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Williamson, Bexar, Liberty, Fort Bend, Brazoria, Matagorda, Anderson, Sabine, Llano, Lamar, Madison, Johnson, McLennan, Rusk, Tarrant, and Young.

Sec. 6. Any person violating any provisions of this Act shall be deem-

ed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$10.00 and not more than \$200.00. Possession of any pelt of any fur-bearing animal protected under this Act at any time other than the open season provided for the taking of such animals and the pelts thereof, or the setting of any trap, snares, or deadfall in any of the counties mentioned in this Act shall be prima facie evidence of guilt of each pelt taken and the setting of each trap, snare, or deadfall shall constitute a separate offense.

Sec. 7. That nothing in this Act shall make it unlawful for any person to acquire between the last day of November and the first day of February of any year, and so possess thereafter for propagation and fur purposes, any of the animals named in Section 1 of this Act upon his obtaining a permit from the Game, Fish and Oyster Commissioner authorizing such person so to do, which said permit shall be valid until the 10th day of the following February of each year and subject to renewal under the terms of this Section, and the Game, Fish and Oyster Commissioner is hereby authorized to issue such permit to such person qualified to possess the same under the terms of this Section; provided, such permit after being issued shall be forfeited upon the person in whose name same has been issued, being convicted for violating any of the game laws of this State or taking any of the game or fur-bearing animals of this State, and such person shall thereafter be denied a permit for said purposes for a period of two years next from and after date of such conviction; provided further, it shall be unlawful for such person having been convicted of violating any of the laws protecting the game or fur-bearing animals of this State to accept such permit provided for in this Section from the Game, Fish and Oyster Commissioner of this State within the period of two years next from and after his being so convicted, and said permit shall be held by the owner to whom it is issued at all reasonable time subject to inspection by the Game, Fish and Oyster Commissioner and his deputies.

Sec. 8. If any section, provision

or part of this Act shall be held invalid for any reason, it is the legislative intent that the remainder of this Act shall remain in full force and effect, and all laws or portion of laws in conflict herewith are hereby repealed.

Sec. 9. The importance of this Act and the fact that the fur-bearing animals named in this Act are rapidly being exterminated in the counties named in this Act and are practically exterminated in several of said counties, and there are not adequate laws for the protection of the fur-bearing animals in the counties named in this Act create an emergency and an imperative public necessity, demanding the suspension of the Constitutional Rule requiring a bill to be read on three several days in each House, and this Act shall take effect and be in force from and after its passage, and said Rule is hereby suspended, and it is so enacted.

Respectfully submitted,

SANDERS,
MURPHY,
McKEAN,
HINES,
BRICE.

On part of the House.

WOODUL,
THOMASON,
BECK,
HORNSBY.

On part of the Senate.

The report was read and adopted.

Messages for the House.

The Chair recognized the Door-keeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,
Austin, Texas, March 12 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to adopt the Free Conference Committee report on H. B. No 567 and requests the appointment of a new Free Conference Committee to further consider the differences between the two Houses. The following are appointed on the part of the House:

Pope of Nueces, Petsch, Storey, Chastain, Loy.

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 12 1929.

Hon. Barry Miller President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 596, A bill to be entitled "An Act increasing the compensation of county attorneys in counties having no district attorney, and repealing laws in conflict herewith."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 12 1929.

Hon. Barry Miller President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

By Senator Thomason.

S. B. No. 315, A bill to be entitled "An Act fixing the compensation for the Assistant Adjutant General at three thousand dollars annually, payable monthly; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

By Senator Parr:

S. B. No. 605, A bill to be entitled "An Act to diminish the Civil Jurisdiction of the county court of Nueces County; to conform the jurisdiction of the 113 District Court of Nueces County thereto; etc."

With amendments.

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 12, 1929.

Hon. Barry Miler, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 613, A bill to be entitled "An Act amending an Act approved February 11, 1929, creating the 109th Judicial District, the same being S. B. No. 9, so as to correct the defective emergency clause and place said Act in immediate effect; and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 86, A bill to be entitled "An Act to establish and maintain a dairy, poultry, pecan, crops, and other native products experiment station on the Miles, Roscoe and Abilene soil type in Taylor, Jones, Callahan or Shackelford County, Texas, within a radius of 25 miles of Abilene, Taylor County, Texas; authorizing the board of directors of the Agricultural and Mechanical College of Texas to select a suitable location for said station and empowering said board to establish and maintain same; to accept donations of lands, water, livestock, seeds, plants and money for the establishment of said station and for the operation of same; and declaring an emergency."

The House has reconsidered the vote by which the Free Conference Committee report was adopted and adopted a Corrective Free Conference Committee report on H. B. No. 313 by a vote of 109 yeas and 0 nays.

Respectfully submitted,

LOUISE SNOW PHINNEY.

Chief Clerk House of Representatives.

Free Conference Granted.

The Senate voted to grant the request of the House for a New Free Conference Committee on H. B. No. 567. The Chair appointed the following Free Conference Committee on the part of the Senate on H. B. 567:

Senators Holbrook, Witt, Hyer, McFarlane, and Wirtz.

House Bill Referred.

H. B. No. 121 referred to Committee on State Affairs.

Bills Signed.

The Chair, Lieutenant Governor Barry Miller, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bill:

S. B. No. 596.

House Bill No. 117.

The Chair laid before the Senate the following bill:

By Mr. Finlay:

H. B. No. 117, A bill to be entitled "An Act regulating the season for

taking fur-bearing animals, and regulating the taking of and traffic in hides and skins taken from fur-bearing animals."

Senator DeBerry sent up the following amendments:

Amend H. B. No. 117, Section 9, page 1193 of the Senate Journal by striking out the words and figures twenty-five dollars (\$25.00) and add in lieu thereof the words and figures five dollars (\$5.00). By striking out the words and figures three dollars (\$3.00) and add in lieu thereof the words and figures fifty cents (\$.50).

DeBERRY.

The amendment was read and adopted unanimously.

Amend H. B. No. 117, section 7, page 1193 of the Senate Journal by striking out the words and figures five dollars (\$5.00) and insert in lieu thereof the words and figures two dollars and twenty-five cents (\$2.25).

DeBERRY.

The amendment was read and adopted unanimously.

The bill as amended finally passed by the following vote:

Yeas—30.

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

Motion to Adopt F. C. C. Report.

Senator Witt moved to adopt the Free Conference Committee report on H. B. No. 654.

Recess.

Senator Russek moved to recess until 8:00 o'clock tonight.

Senator Miller moved to adjourn until 10:00 o'clock tomorrow morning. The motion was lost.

The motion to recess prevailed at 6:15 o'clock p. m.

After Recess.

The Senate met at 8:00 o'clock p. m. pursuant to recess, and was called to order by Lieutenant Governor Barry Miller.

House Bill No. 654.

The question recurred upon the adoption of the following Free Conference Committee report:

Committee Room,

Austin, Texas, March 5, 1929.

Hon. Barry Miller, President of the Senate, and

Hon. W. S. Barron, Speaker of the House of Representatives, and

Hon. Fred Minor, Speaker Pro Tem of the House of Representatives.

Gentlemen: We, your Conference Committee, appointed by your respective bodies to consider House Bill No. 654, have had said bill under consideration and beg leave to report that we have reached the following agreement, to-wit:

We have carefully considered the differences between the House and the Senate as revealed in H. B. No. 654 as it finally passed the Senate and after careful study, we have re-written the entire bill so as to eliminate the differences between the House and Senate, and the bill as re-written by this committee is attached to this committee report and is made a part hereof, which is here referred to.

We have eliminated the Senate amendment providing that no carrier may charge a rate greater than will yield a net of eight (8%) per cent per annum on his investment. We believe that this amendment is impractical and would involve excessive and unnecessary work in the enforcement of this law; again it would work a hardship on the small operator whose investment is not large. We believe that in view of existing competition with truck operations and in view of other strict regulations provided by the bill, rates will be kept down to reasonable figures.

We have included in the bill the Senate amendment providing that the certificate of any holder may be cancelled if he fails to pay any gas-

oline tax or other tax imposed on his business by law.

We have retained the Senate amendment with reference to regulation of tonnage and equipment, however, we have changed this amendment so as to read "Railroad Commission" instead of "Highway Commission." We believe that it would not be good public policy to have the regulation of trucks divided on a vital matter between the Highway Commission and the Railroad Commission. In other parts of the bill it is provided that the Railroad Commission must give due consideration to the orders and decrees of the Highway Commission so that to all intents and purposes, this amendment is carried forward in the bill.

In lieu of the Pope amendment offered by the House, we have inserted in the bill the following provision: "Nothing in this Act shall be construed as giving legislative sanction to any Act that would violate the provisions of the anti-trust laws of Texas."

We have made other minor changes, particularly with reference to typographical errors, all of which appear in the bill as submitted.

Having carefully gone into this bill and being of the belief that the bill as finally worked out by us conforms to sound principles of regulation and that it will foster better public service by common carrier motor trucks, as well as protect the public, we recommend that the bill as re-written by us be adopted by both the House and Senate.

Respectfully submitted,

TILLOTSON,

BECK,

MAYNARD,

MORSE,

HUBBARD.

On part of the House.

WOODWARD,

WITT,

WESTBROOK,

MARTIN.

On part of the Senate.

(Attached to and made a part of Conference Report on H. B. No. 654.)

A BILL

To Be Entitled

An Act defining motor carriers and placing such motor carriers under the regulation of the Railroad

Commission of Texas; providing for the classification of motor carriers into classes and providing that every motor carrier in order to operate on the public highways must have a permit or certificate of public convenience and necessity; providing further, that such motor carriers may not operate without filing with the Railroad Commission of Texas a bond or insurance policy which will protect the public for injuries or loss resulting from such operation; declaring that such motor carriers are common carriers and giving to the Railroad Commission the power to regulate the routes and rates, schedules, service and safety of class "A" motor carriers; providing for hearings on application for permits and certificates of convenience and providing for appeal from the decisions of the Railroad Commission providing for the attendance and fees for witnesses at public hearings; making the violation of any provision of the Act a misdemeanor and imposing a penalty; providing for the recovery of penalties by the State for the violation of the rules and orders of the Commission and providing for the remedy of injunction to enforce the Act; providing license fees for the creation of a fund for administering the Act and providing a portion from sales of certificates shall go to the State Treasury for the benefit of the State Highway Fund; providing for the issuance of special identification plates for motor carrier vehicles and prescribing the fees therefor; appropriating a fund for the administration of the Act in the event revenues from licenses are insufficient for that purpose; granting to the Railroad Commission power to prescribe rules and regulations that may be necessary to make the Act effective; repealing all laws and parts of laws in conflict therewith and providing that invalidity of one part shall not effect the validity of the remaining portions of the Act; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. (a) The term "motor carrier" when used in this Act denotes any person, firm, corporation,

co-partnership, association, joint stock association, receiver, trustee, or lessee who operated or causes to be operated any motor propelled vehicle (not usually operated on or over rails) over or along the highways or streets of this State for the purpose of carrying or transporting property for compensation or hire between two or more incorporated cities, towns or villages.

(b) For the purpose of this Act motor carriers are classified as follows:

Class "A" shall include motor carriers engaged in the business of carrying or transporting property for compensation or hire along the streets or highways of this State over fixed routes, under regular schedules and having fixed termini and receiving compensation or hire for such service in accordance with published rates and tariffs. Such operation being carried on between two or more incorporated cities, towns or villages.

Class "B" shall include motor carriers who transport or carry property for compensation or hire between two or more incorporated cities, towns or villages, but who have no fixed routes, regular schedules or fixed termini or published rates.

(c) The term "Highway Commission" when used in this Act denotes the Board of Highway Commissioners of the State of Texas.

(d) The term "Commission" when used in this Act denotes the Railroad Commission of the State of Texas.

(e) The term "motor carrier vehicle" denotes a motor propelled vehicle used by a motor carrier for transporting property.

Sec. 2. All motor carriers as defined in the preceding sections are hereby declared to be common carriers and subject to regulation by the State of Texas, and shall not operate any motor propelled vehicle for the purpose of transportation or carriage of property for compensation or hire over any public highway or street in the State, except in accordance with the provisions of this Act; provided however, that nothing in this Act or any provision thereof shall be construed or held to in any manner affect, limit or deprive cities and towns from exercising any of

the powers granted them by Chapter 147, pages 307 to 318, inclusive, of the General Laws of the State of Texas, passed by the Thirty-third Legislature or any amendments thereto.

Sec. 3. It is hereby declared that when existing transportation facilities on any highway in the State do not provide a service which the Commission shall deem adequate for the public then such inadequacy of service shall be considered as creating a condition wherein the public convenience and necessity require the designation of, and the provision for, additional service on such highway, and it shall be the duty of the Commission to issue certificate or certificates as herein provided, if in the opinion of said Commission the issuance of such certificates will promote the public welfare; provided however, that no certificate of public convenience and necessity shall be issued except to a motor carrier coming under Class "A" as herein defined.

Sec. 4. The Commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate the public service rendered by every Class "A" motor carrier operating over the public highways or streets of this State, to fix or approve the maximum, or minimum, or maximum and minimum rates or charges of, and to prescribe all rules and regulations necessary for the government of, each Class "A" motor carrier; to prescribe the routes, schedules, service, and safety of operations of each such motor carrier, to require the filing of such annual and other reports and of other data by such motor carrier as the Commission may deem necessary; and to supervise and regulate such motor carriers in all other matters affecting the relationship between such carriers and the shipping public whether herein specifically mentioned or not. The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Highway Commission of Texas, and to the recommendations of the Commissioners' Courts of the several counties and to

the recommendations or local government of any municipality through and between which routes for such Class "A" motor carriers are prescribed and adopted.

Sec. 5. No Class "A" motor carrier shall hereafter operate for the transportation of property for compensation or hire over the public highways or streets of this State without first having obtained from the Commission under the provision of this Act, a certificate declaring that the public convenience and necessity require such operation; provided, however, that when it appears to the satisfaction of the Commission that any Class "A" motor carrier making application for certificate is, at the time of the filing of the application, operating and has been continuously operating a motor propelled vehicle service in good faith, of the character and kind as set forth in the definition of Class "A" motor carriers, over the particular highways designated in said application for certificate ever since February 20, 1929 said Class "A" motor carrier shall upon application be granted a temporary certificate to operate just as said carrier shall have been operating during said period and no more; said temporary certificate shall become permanent without notice and hearing before the Commission unless a protest shall be filed with the Commission within thirty days after said temporary certificate is granted; and in the event protest is filed, then such temporary certificate shall continue in effect until said application and protest is heard and decided upon by the Commission, and said hearing and decision shall be had and rendered by the Commission as speedily as possible.

At any time within thirty days after the day on which any temporary certificate is granted, anyone affected by the granting of said certificate may file with the Commission a protest against said certificate become or being made permanent, but such protest to be considered by the Commission must be filed within the specified thirty days, and shall be in writing, and the author or authors of said protest shall supply the applying motor carrier with a copy of same, setting forth in detail the reasons for protest. In the event

of protest to any application of any existing motor carrier, hearing upon such application and protest shall be had and decision rendered as provided for all other applications.

Any certificate held, owned or obtained by any Class "A" motor carrier under the provisions of this Act may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, assignment, lease or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer, if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer, is not made in good faith, or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred, in such manner as to render the service demanded by the public necessity and convenience on and along the designated route; provided, however, that in case a certificate is transferred that the transferee shall pay to the Commission a sum of money equal to ten per cent (10%) of the amount paid as a consideration for the transfer of the certificate, which sum of ten per cent (10%) shall be deposited in the State Treasury to the credit of the "Highway Fund" of the State. Provided further, that any certificate obtained by any motor carrier, or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any owner or holder of such certificate.

Sec. 6. (a) Each and every motor carrier now rendering that kind and character of service as set forth in the definition of a Class "B" motor carrier, or any other motor carrier that may hereafter desire to engage in the business of a Class "B" motor carrier, shall receive a permit from the Commission to engage in such business, but such permit shall not be issued until the applicant shall have in all things complied with the requirements of this Act and general

law applicable to Class "B" motor carriers, nor shall such permit be issued unless the character of business being done, or to be done by the applicant strictly conform to the definition of a Class "B" motor carrier. The Commissioner shall have the power, after notice and hearing, to revoke any existing permit when it appears that such permit holder has disobeyed or violated any provision of this Act or of a general law, or violated any rule or regulation of the Commission authorized by this Act. The permits issued under the terms of this Section shall not be assigned, devised or inherited.

(b) No application for a permit shall be considered by said Commission unless it be reduced to writing and set forth the following facts:

1. It shall contain the name and address of the applicant, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The application shall set forth the nature of the transportation in which the applicant wishes to engage, stating substantially the territory to be covered by the operation, and it shall give a description of each vehicle which the applicant intends to use.

3. The application shall state that it is not the intention of the applicant to operate regularly on schedules or to engage in the character of transportation defined in the definition of a Class "A" motor carrier.

Sec. 7. For the purpose of defraying the expense of administering this Act, every Class "B" motor carrier shall at the time of the issuance of a permit to him and annually thereafter on or between September 1 and September 15 of each calendar year, pay a special fee of \$5.00 for each motor carrier vehicle operated or to be operated by such motor carrier.

Sec. 8. The Commission is hereby vested with power and authority, and it is hereby made its duty upon the filing of an application for a certificate of public convenience and necessity to ascertain and determine under such rules and regulations as it may promulgate, after

considering existing transportation facilities on such highways, and the demand for, or need of additional service, if there exists a public necessity for such service, and if public convenience will be promoted by granting said application and permitting the operating of motor vehicles on the highways designated in such application as a common carrier for hire.

Sec. 9. The Commission shall also ascertain and determine if a particular highway or highways designated in an application for a certificate of public convenience and necessity are of such type of construction or in such state of repair, or subject to such use as to permit of the use sought to be made by the applicant, without unreasonable interference with the use of such highways by the general public for highway purposes. And if the Commission shall determine, after hearing that the service rendered by existing transportation facilities or agencies on such highways is reasonably adequate, or that public convenience on such highways would not be promoted by granting of said application, and the operation of motor vehicles on public highways therein designated, or that such highway or highways are not in such state of repair, or are already subject to such use as would not permit of the use sought to be made by the applicant without unreasonable interference with the use of such highways by the general public for highway purposes, then in either or any of such event said application may be denied and said certificate refused, otherwise the application shall be granted and the certificate issued upon such terms and conditions as said Commission may impose and subject to such rules and regulations as it may thereafter prescribe.

The Commission shall have no power in any event to refuse an application for a certificate of convenience and necessity on the ground that there are existing railroad or interurban railroad transportation facilities sufficient to serve the transportation needs of the territory involved.

In determining whether or not a certificate should be issued to a

Class "A" operator, the Commission shall give weight and due regard to (1) probable permanence and the quality of service offered by the applicant; (2) the financial ability and responsibility of the applicant and its organization and personnel; (3) the character of vehicles and the character and location of depots or termini proposed to be used, and (4) the experience of the applicant in the transportation of property and the character of the bond or insurance proposed to be given to insure the protection of the public.

The Commission shall have the power and authority to grant temporary certificates to meet emergencies and shall have the power to make special rules and regulations to meet special conditions in different localities and for such time as in its judgment may be deemed expedient and best for the public welfare.

Sec. 10. No application for a certificate of public convenience and necessity shall be considered by said Commission unless it be in writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with a description of each vehicle which the applicant intends to use.

(3) A proposed time schedule and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or map shall be delineated the line or lines of any existing transportation company or companies over the highways serving such territory, with the names and addresses of the owner or owners thereof, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and

would be secured by the granting of said application.

Sec. 11. Upon the filing of said application for a certificate, the Commission shall fix a time and place for hearing, and the place of hearing shall be in the City of Austin, Texas, unless otherwise ordered by the Commission. Notice of the filing of said application, and the time and place of hearing shall be given by mail not less than ten days exclusive of the day of mailing before such hearing, addressed to the owner or owners of existing motor carrier facilities over such highways, serving such territory as applicant seeks to serve, as well as to the Highway Commission of the State of Texas, the county judge or judges of the counties and to the mayor of any incorporated city or town through which such carrier seeks to operate.

Sec. 12. The hearing on an application for certificate shall be conducted under such rules and regulations as the Commission may prescribe, and all parties interested, including the Highway Commission of this State, may appear either in person or by counsel, and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of said application. It shall be the duty of the Highway Commission of this State, upon the request of the Commission to furnish any and all information that it has at its command relating to the highway or highways designated in such application as well as such other information as said Commission may deem pertinent to the granting or refusal of such application. After such hearing, and such investigation as the Commission may make of its own motion, it shall be the duty of said Commission to either refuse said application, or to grant said application and issue the certificate, upon such terms and conditions as it may impose, and subject to such rules and regulations as it may thereafter prescribe.

The Commission at any time after hearing had upon notice to the holder of any certificate granted under this Act, and after oppor-

tunity given such holder to be heard, may by its order duly entered revoke, suspend, alter or amend any certificate issued under the provisions of this Act, provided, such hearing shall reveal to the satisfaction of the Commission that such certificate holder has discontinued operation or has violated, refused or neglected to observe any of the Commission's orders, rates, rules, or regulations; provided that the holder of such certificate shall have the right of appeal as provided in this Act.

Sec. 13. Before any permit may be issued to any Class "B" motor carrier, and before any certificate of public convenience and necessity may be issued to any Class "A" motor carrier, and before any motor carrier of either Class may lawfully operate under such permit or certificate, as the case may be, such motor carrier shall file with the Commission a bond or insurance policy issued by some insurance company or bonding company authorized by law to transact business in Texas, in an amount to be fixed by the Commission under such rules and regulations as it may prescribe, which bond or insurance policy shall provide that the obligor therein will pay to the extent of the face amount of such insurance policy or bond, all judgments which may be recovered against the motor carrier so filing said insurance policy or bond, based on claims for loss or damages from personal injury or loss of, or injury to, property occurring during the term of the said bond or policy and arising out of the actual operation of such motor carrier, and such bond or policy shall also provide for successive recoveries to the complete exhaustion of the face amount thereof and that such judgments will be paid by the obligor in said bond or insurance policy irrespective of the solvency or insolvency of the motor carrier; provided, however, such bond or policy shall not cover personal injuries sustained by the servants, agents or employees of such motor carrier. The term of such bond or insurance policy so filed shall be one year from the date thereof, and when issued by the obligor and filed by the motor carrier, such bond or insurance policy shall not be subject to cancellation for any cause by the obligor,

and such bond or policy shall remain in force and effect as to all claims or causes of action based on injuries or loss occurring during the term of such bond or policy. Each such motor carrier shall, on or before the date of the expiration of the term of any policy or bond so filed by him, file a renewal thereof, or a new bond or policy containing the same terms and obligations of the preceding bond or policy, and shall each year thereafter on or before the expiration date of the existing bond or policy, file such renewal policy or bond so as to provide continuous and unbroken protection to the public having legal claims against such motor carrier, and in the event such renewal bond or policy is not so filed, the permit or certificate of public convenience and necessity of such motor carrier shall automatically expire and cease to exist.

Each motor carrier of Class "A" and Class "B" shall also protect his employees by taking out workmen's Compensation Insurance, either as provided by the Workmen's Compensation Laws of the State of Texas, or in a reliable insurance company approved by the Commission.

Sec. 13a. Before any permit is granted the nature and character of equipment to be used and the amount and character of tonnage which may be hauled therein shall first be fixed and approved by the Commission. Any person, association of persons, firm or corporation operating under the terms of this Act using any equipment or hauling any tonnage over a highway of this State not approved by the Commission shall forfeit its permit and in addition shall be subject to a penalty of one hundred (\$100.00) dollars per day for each day or fraction thereof of which it may be found guilty of violating the provisions of this Section, such penalty to be recovered by suit brought by the Attorney General in any District Court of Travis County.

Sec. 14. The Commission shall have the power and authority under this Act to hear and determine all applications of motor carriers; to determine complaints presented to it by such carrier, by any public official or by any citizen having an interest in the subject matter of the com-

plaint, or it may institute and investigate any matter pertaining to motor carriers upon its own motion. The Commission, or any member thereof, or authorized representative of the Commission, shall have power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof, and if such record is made under the direction of a Commissioner, or authorized representative of the Commission, a majority of the Commission may, upon the record, render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent and provisions of this Act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

Sec. 15. Every witness who shall be summoned to appear before the Commission, or a Commissioner or authorized representative outside the county of his residence shall receive for his attendance the same per diem and fees as now provided for witnesses in attendance in district courts of this State in criminal cases; such fees and mileage shall be ordered paid upon proper voucher, sworn to by such witness and approved by the Commission or the Chairman thereof out of the monies or funds arising under this Act; provided that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any motor carrier involved or concerning which the investigation or hearing on account of which he is called, shall relate, and no witnesses furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. All process issued by the Commission for summoning witnesses or other purposes shall be directed to the sheriff or any constable of any county in the State of Texas, and any sheriff or constable of any county in this State shall promptly execute any subpoenas or other documents directed to him by the Commission and shall receive such fees for this service as is now paid for like services in the

district courts of this State, such payment to be made on accounts properly verified and approved by the Commission or the Chairman thereof out of the fund provided in this Act.

Sec. 16. (a) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids, or abets in the violation of any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment, and the violations occurring on each day shall each constitute a separate offense.

(b) Any officer, agent, servant or any motor carrier as hereinbefore defined, and any motor carrier as hereinbefore defined, who violates or fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the Commission, shall be subject to and shall pay a penalty not exceeding Five Hundred (\$500.00) Dollars, for each and every day of such violation. Such penalty to be recovered in any court of competent jurisdiction in Travis County, Texas, or in the county in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney in the county in which the violation occurs, in the name of the State of Texas and by direction of the Railroad Commission of Texas.

(c) Upon the violation of any provision of this Act, or upon the violation of any rule, regulation, order or decree of the Commission promulgated under the terms of this Act any district court of Travis County, Texas, or any district court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission or upon the application any person authorized by it to act. Such relief may be granted in suits for

penalties as provided in Subdivision B of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this subdivision.

(d) Any authorized inspector for the Commission shall have the power and authority to make arrests for any violation of this Act coming under his observation, but his authority to make arrests shall be confined solely to violations of this Act, and it shall be the duty of all judges and peace officers of the counties and municipalities of this State to assist in the enforcement of this Act.

Sec. 17. (a) For the purpose of defraying the expense of administering this Act, every Class "A" motor carrier now regularly operating, or which shall hereafter regularly operate in this State, shall at the time of the issuance of a certificate of convenience and necessity, as provided herein and annually thereafter on or between September 1st and September 15th of each calendar year, pay a special fee of Fifteen (\$15.00) Dollars, for each motor propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month of September of any year the fees paid shall be prorated to the remaining portion of the year ending August 31st., following but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. In case of emergency or unusual temporary demands for transportation the fee for additional motor propelled vehicles for less periods shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(b) Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-Five (\$25.00) Dollars, which fee shall be

in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not.

(c) All fees except the fee provided in Section 5 of this Act accruing under the terms of this Act and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasury at Austin and credited to a fund to be known and designated as the "Motor Carrier Fund," which is appropriated for the purpose of carrying out the terms of this Act and out of which all warrants and expenditures necessary in administering and enforcing this Act shall be paid.

Sec. 18. It shall be unlawful for any motor carrier as hereinbefore defined to operate any motor carrier vehicle within this State unless there shall be displayed and firmly fixed upon the front and rear of such vehicle an identification plate to be furnished by the Commission, each of such plates shall be designed so as to identify the vehicle on which the same is attached as being a vehicle authorized to operate under the terms of this law; said plate shall bear the number given to the vehicle by the Commission and such other marks of identification as may be necessary. The plates for Class "A" vehicles and the plates for Class "B" vehicles shall be different in design. The identification plates provided for herein shall be in addition to the regular license plates required by law. It shall be the duty of the Commission to provide these plates and each motor carrier vehicle operating in this State shall display one of said plates within sixty (60) days after this Act takes effect and such plates shall be issued annually thereafter and attached to each motor carrier vehicle not later than September 1st of each year. The Commission shall be authorized to collect from the applicant a fee of One (\$1.00) Dollar, for each plate so issued and all fees for such plates shall be deposited in the State Treasury to the credit of the "motor carrier fund."

Sec. 19. (a) The Commission shall have power to employ and appoint from time to time such experts, assistants, and other help, in addition

to its present force as may be deemed necessary to enable it at all times to properly administer and enforce this Act. Such persons and employees of the Commission shall be paid for the services rendered such sums as may be fixed and prescribed by the Commission in monthly installments, and such salaries, wages and all fees that may be paid to witnesses and officers shall be paid out of the motor carrier fund by the State Treasurer on warrant of the Comptroller of Public Accounts on order or voucher approved by the Commission or the Chairman thereof. All actual and necessary traveling expenses of the members of the Commission and employees shall also be paid out of said fund in the same manner as salaries, wages and fees when such accounts shall have been itemized and sworn to by the Commission or employee incurring the expense and approved by the Commission or the Chairman thereof.

(b) If the amount of total fees collected under the provisions of this Act shall not be sufficient during any annual period to pay such salaries, costs, charges, fees, and expenses, then the deficit shall be paid by the State Treasurer out of any fund not otherwise appropriated. Until sufficient funds have accrued to said motor carrier fund for the payment of expenses, fees, etc., as provided herein, said expenses shall be paid by the State Treasurer out of any funds not otherwise appropriated, such sum to be paid out of the general revenue not to exceed the sum of Five Thousand (\$5,000) Dollars, and said sum is hereby appropriated. Any surplus remaining in the motor carrier fund at the end of any fiscal year, after paying all such salaries, accounts, fees, and charges and after deducting such amounts as may be contracted to be paid and incurred and such sums as may be reasonably estimated by the Commission for its use pending further collection of fees, shall be paid over to the general revenue fund.

Sec. 20. If any motor carrier or other party at interest be dissatisfied with any decision, rate, charge, rule, order, act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party after failing to

get relief from the Commission may file a petition setting forth the particular objection to such decision, rate, charge, rule, order, act, or regulations, or to either or all of them in the district court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the appellate court having jurisdiction of said cause and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a difference character therein pending; provided, that if the court be in session at the time such right of action accrues the suit may be filed during such term and stand ready for trial after ten days' notice. In all trials under this section the burden of proof shall rest upon plaintiff, who must show by the preponderance of evidence that the decisions, rates, regulations, rules, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder and no injunction shall be granted against any order of the Commission without hearing unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Sec. 21. Whenever notice is required in this Act to be given ten days exclusive of the day of service and return shall be considered as reasonable notice; provided, that in case of emergency the Commission may hear any cause or complaint on less than ten days notice.

Sec. 22. The State Board of Control is hereby authorized and directed to set aside such additional office space in the Capitol at Austin as may be deemed necessary by the Commission for the proper performance of its added duties as herein defined.

Sec. 22-A. Any certificate of public convenience and necessity shall be cancelled by the Commission if the owner or owners thereof

shall in any manner avoid, fail or refuse to pay any gasoline or other tax imposed by law on such business.

Sec. 23. All laws and parts of laws in conflict herewith are hereby expressly repealed. Provided however that nothing in this Act shall be construed as giving legislative sanction to any act that would violate the provisions of the Anti-Trust laws of Texas.

Sec. 24. If any section, subsection, sentence, clause or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

Sec. 25. The fact that there is at this time a large number of individuals, firms and corporations using the highways of this State for the transportation of property for hire, by motor propelled vehicles, and the further fact that there is no law regulation this extensive branch of common carrier service, and no law to protect the public in its dealings with common carrier, creates an emergency and a public necessity requiring the suspension of the constitutional rule which requires all bills to be read in each House on three several days, and that such rule be and the same is hereby suspended, and that this Act shall take effect from and after its passage, and it is so enacted.

The report was read.

Senator Witt moved to adopt the report.

Senator Miller moved as a substitute that the Senate refuse to accept the report and request the House for a new Free Conference Committee.

Senator Witt moved the previous question on the two motions. The previous question was ordered by the following vote:

Yeas—17.

Beck.	Parrish.
Berkeley.	Patton.
Gainer.	Stevenson.
Greer.	Thomason.
Hardin.	Westbrook.
Hornsby.	Williamson.
Hyer.	Witt.
Love.	Woodward.
Moore.	

Nays—9.

Cunningham.	Miller.
DeBerry.	Parr.
McFarlane.	Pollard.

Russek. Woodul.
Wirtz.

Absent.

Cousins. Martin.
Holbrook. Small.

Absent—Excused.

Neal.

The motion to ask for a new Committee was lost by the following vote:

Yeas—7.

Cunningham. Parr.
DeBerry. Russek.
McFarlane. Wirtz.
Miller.

Nays—20.

Beck. Patton.
Berkeley. Pollard.
Gainer. Small.
Greer. Stevenson.
Hardin. Thomason.
Hornsby. Westbrook.
Hyer. Williamson.
Love. Witt.
Moore. Woodul.
Parrish. Woodward.

Absent.

Cousins. Martin.
Holbrook.

Absent—Excused.

Neal.

The motion to adopt the report prevailed by the following vote:

Yeas—20.

Beck. Patton.
Berkeley. Pollard.
Gainer. Small.
Greer. Stevenson.
Hardin. Thomason.
Hornsby. Westbrook.
Hyer. Williamson.
Love. Witt.
Moore. Woodul.
Parrish. Woodward.

Nays—6.

Cunningham. Miller.
DeBerry. Parr.
McFarlane. Russek.

Absent.

Cousins. Martin.
Holbrook. Wirtz.

Absent—Excused.

Neal.

House Bill No. 309.

The Chair laid before the Senate on second reading the following bill:

By Mr. Cox of Navarro and Mr. Duvall, et al.:

H. B. No. 309, A bill to be entitled "An Act prescribing that physical education courses approved by the State Department of Education shall be taught in the public schools of Texas; and authorizing the State Superintendent of Public Instruction to provide for the direction and supervision of physical education instruction in the public schools."

Read second time.

Senator Greer sent up the following amendment:

Amend by adding a new section as follows:

Sec. 3. The importance of the provisions of this Act, and the necessity for its early enactment, and the crowded condition of the legislative calendar creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days in each House, and said rule is hereby suspended, and amend the caption to conform to the body of the bill.

GREER.

Read and adopted.

The bill as amended passed to third reading.

On motion of Senator Greer the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 309 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck. Parr.
Berkeley. Parrish.
Cunningham. Patton.
DeBerry. Pollard.
Gainer. Russek.
Greer. Small.
Hardin. Stevenson.
Hornsby. Thomason.
Hyer. Westbrook.
Love. Williamson.
Martin. Wirtz.
McFarlane. Witt.
Miller. Woodul.
Moore. Woodward.

Absent.

Cousins. Holbrook.

Absent—Excused.

Neal.*

Read third time and finally passed.

Motion to Concur.

Senator Parr moved to concur in the House amendments to S. B. No. 605. The motion prevailed.

House Bill No. 532.

The Chair laid before the Senate on second reading the following bill:

By Mr. Jenkins:

H. B. No. 532, A bill to be entitled "An Act to provide for the appointment of an assistant district attorney in certain counties."

The committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Williamson the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 532 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins. Holbrook.

Absent—Excused.

Neal.

Read third time and finally passed.

House Bill No. 496.

The Chair laid before the Senate on second reading the following bill:

By Mr. Gilbert and Mr. King:

H. B. No. 496, A bill to be entitled "An Act providing that there shall be allowed to county judges, clerks of the district and county courts, sheriffs, county treasurers, tax assessors and collectors, books, station-

ery, blanks, and all office furniture and supplies that may be necessary for a proper administration of their offices."

The committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Cunningham the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 496 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins. Holbrook.

Absent—Excused.

Neal.

Read third time and finally passed by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard..
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins. Holbrook.

Absent—Excused.

Neal.

House Bill No. 583.

The Chair laid before the Senate on second reading the following bill:

By Mr. Hubbard and Mr. Beck:

H. B. No. 583, A bill to be entitled "An Act to amend Articles 833 and 834 of the Penal Code of the State of Texas for 1925, so as to give the State Highway Commission authority to forbid the use of roads and bridges under certain circumstances."

The committee report, carrying an amendment, was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Beck the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 583 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins. Holbrook.

Absent.

Neal.

Read third time and finally passed.

House Bill No. 736.

The Chair laid before the Senate on second reading the following bill:

By Mr. Keeton and Mr. Cox of Lamar:

H. B. No. 736, A bill to be entitled "An Act fixing the compensation and fees of the office of the tax assessor and of the tax collector of Fannin county, Texas, for assessing and collecting taxes for the independent road districts, and amending Section 54, of Chapter 58, of the Special Laws of the Thirty-third Legislature, approved March 19, 1913, so as to place the fee of such offices for assessing and collecting said taxes at three-fifths of one cent on the one hundred dollars (\$100.00) valuation

of the property in said districts."

The committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Westbrook the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 736 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins. Holbrook.

Absent—Excused.

Neal.

Read third time and finally passed by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins. Holbrook.

Absent—Excused.

Neal.

House Bill No. 629.

The Chair laid before the Senate on second reading the following bill:

By Mr. Hines, Mr. Harper and Mr. Simmons:

H. B. No. 629, A bill to be entitled "An Act prohibiting the sale of fish during the months of February and March in Cass, Bowie, Morris and Titus counties."

The committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Beck the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 629 was put on its third reading and final passage, by the following vote:

Yeas—28.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins. Holbrook.

Absent—Excused.

Neal.

Read third time and finally passed.

House Bill No. 638.

The Chair laid before the Senate on second reading the following bill:

H. B. No. 638, A bill to be entitled "An Act providing for a shrimp and oyster canner's license, manner of making application, fee and form of license, tax on net weight of shrimp and oysters processed and canned, inspection by Game, Fish and Oyster Commissioner or his deputies, form and manner of keeping records and making reports, suit for recovery of taxes or fees, and other regulations and fees, and other regulations of the shrimp and oyster canning business, penalties; and declaring an emergency."

Read second time.

Senator Holbrook moved to indefinitely postpone the further consideration of the bill. The motion was lost.

The bill failed to pass to third reading by the following vote:

Yeas—14.

Beck.	Patton.
DeBerry.	Pollard.
Gainer.	Small.
Greer.	Thomason.
Love.	Westbrook.
McFarlane.	Williamson.
Miller.	Wirtz.

Nays—14.

Berkeley.	Moore.
Cunningham.	Parr.
Hardin.	Parrish.
Holbrook.	Russek.
Hornsby.	Stevenson.
Hyer.	Witt.
Martin.	Woodul.

Absent.

Cousins. Woodward.

Absent—Excused.

Neal.

The Chair voted nay.

House Bill No. 503.

The Chair laid before the Senate on second reading the following bill:

By Mr. Shaver:

H. B. No. 503, A bill to be entitled "An Act authorizing the board of normal regents of the Texas State Teachers Colleges to make contracts for the erection of dormitories, to purchase or lease lands and other appurtenances for dormitories."

The bill was read second time and passed to third reading.

On motion of Senator Thomason the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 503 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Absent.

Cousins.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—29.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Absent.

Cousins.

Absent—Excused.

Neal.

House Bill No. 742.

The Chair laid before the Senate on second reading the following bill:

H. B. No. 742, A bill to be entitled "An Act amending Article 5397, and providing that any claim which has been forfeited by any locator or owner by reason of the failure to pay rental or royalty, may be reinstated by the locator or owner within ninety days from the date of the forfeiture upon payment of all rentals and royalties due the State on said claim by said locator or owner and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Small the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 742 was put on its third reading and final passage, by the following vote:

Yeas—29.

Beck.	Gainer.
Berkeley.	Greer.
Cunningham.	Hardin.
DeBerry.	Holbrook.

Hornsby.	Russek.
Hyer.	Small.
Love.	Stevenson.
Martin.	Thomason.
McFarlane.	Westbrook.
Miller.	Williamson.
Moore.	Wirtz.
Parr.	Witt.
Parrish.	Woodul.
Patton.	Woodward.
Pollard.	

Absent.

Cousins.

Absent—Excused.

Neal.

The bill was read third time and finally passed by the following vote:

Yeas—29.

Beck.	Parr.
Berkeley.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Absent.

Cousins.

Absent—Excused.

Neal.

House Bill No. 253.

The Chair laid before the Senate on second reading the following bill:

By Mr. Anderson:

H. B. No. 253, A bill to be entitled "An Act to empower the State Text Book Commission to adopt a multiple list of text books in German for use in high schools and also other high school texts on such other subjects for use in junior high schools as may be determined by a seven-ninths vote of said Commission, and declaring an emergency."

The bill was read second time.

Senator Wirtz sent up the following amendments:

Amend H. B. No. 253, by adding a new section thereto to be known as Section 2-A, to read as follows:

Section 2-A, The State Text Book

Commission shall not make any change in any text book heretofore adopted and in use unless three-fourths or more of all the County Superintendents and independent school district principals and superintendents recommend, in writing, a change thereof, and any change made without such recommendation shall be void.

(Signed) Wirtz, Martin, Small, Russek, Parr, Berkeley, Witt, Hornsby, Cunningham, Cousins, Beck, Woodul, Hardin, Thomason, Patton, Westbrook, Hyer, Williamson, McFarlane, Moore.

Amend the caption of House Bill No. 253, by adding after the words "vote of said Commission" and before the words "and declaring an emergency," the following:

"And providing for a referendum to the common and district school authorities and prohibiting the making of such change except upon recommendation of such authorities."

WIRTZ.

The amendments were read.

Senator Miller moved the previous question on the amendments and the bill. The previous question was ordered by the following vote:

Yeas—16.

Beck.	Patton.
Berkeley.	Russek.
Gainer.	Small.
Hardin.	Stevenson.
Hyer.	Westbrook.
Martin.	Williamson.
Miller.	Wirtz.
Parr.	Witt.

Nays—12.

Cunningham.	McFarlane.
DeBerry.	Parrish.
Greer.	Pollard.
Holbrook.	Thomason.
Hornsby.	Woodul.
Love.	Woodward.

Absent.

Cousins. Moore.

Absent—Excused.

Neal.

The amendments were adopted by the following vote:

Yeas—16.

Cunningham.	Hardin.
Gainer.	Holbrook.

Hyer.	Small.
Martin.	Stevenson.
Miller.	Westbrook.
Moore.	Williamson.
Parr.	Wirtz.
Russek.	Witt.

Nays—12.

Berkeley.	Parrish.
DeBerry.	Patton.
Greer.	Pollard.
Hornsby.	Thomason.
Love.	Woodul.
McFarlane.	Woodward.

Absent.

Beck. Cousins.

Absent—Excused.

Neal.

Senator Parrish moved to adjourn until 10:00 o'clock Wednesday morning. The motion was lost by the following vote:

Yeas—13.

Cunningham.	Pollard.
DeBerry.	Small.
Greer.	Thomason.
Love.	Westbrook.
Martin.	Woodul.
McFarlane.	Woodward.
Parrish.	

Nays—14.

Berkeley.	Parr.
Hardin.	Patton.
Holbrook.	Russek.
Hornsby.	Stevenson.
Hyer.	Williamson.
Miller.	Wirtz.
Moore.	Witt.

Absent.

Beck. Gainer.

Cousins.

Absent—Excused.

Neal.

The bill as amended passed to third reading by the following vote:

Yeas—16.

Cunningham.	Parr.
Gainer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Hyer.	Westbrook.
Martin.	Williamson.
Miller.	Wirtz.
Moore.	Witt.

Nays—11.

Berkeley.	Parrish.
DeBerry.	Patton.
Greer.	Pollard.
Hornsby.	Woodul.
Love.	Woodward.
McFarlane.	

Absent.

Beck.	Thomason.
Cousins.	

Absent—Excused.

Neal.

Adjournment.

Senator DeBerry moved to adjourn until tomorrow morning at 10:00 o'clock. The motion prevailed by the following vote:

Yeas—16.

Cunningham.	Parrish.
DeBerry.	Pollard.
Gainer.	Russek.
Hornsby.	Small.
Love.	Stevenson.
Martin.	Westbrook.
McFarlane.	Woodul.
Miller.	Woodward.

Nays—10.

Berkeley.	Parr.
Greer.	Patton.
Holbrook.	Williamson.
Hyer.	Wirtz.
Moore.	Witt.

Absent.

Beck.	Hardin.
Cousins.	Thomason.

Absent—Excused.

Neal.

At 10:50 o'clock p. m., the Senate adjourned.

APPENDIX.

Committee on Enrolled Bills.

Committee Room,
Austin, Texas, March 12, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 187 carefully examined and compared, and find the same correctly enrolled,

and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 12, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 254 carefully examined and compared, and find the same correctly enrolled, and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 12, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 502 carefully examined and compared, and find the same correctly enrolled, and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 12, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 190 carefully examined and compared, and find the same correctly enrolled, and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 12, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 344 carefully examined and compared, and find the same correctly enrolled, and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,
Austin, Texas, March 12, 1929.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 503 carefully examined and compared, and find the same correctly enrolled,

and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 82 carefully examined and compared, and find the same correctly enrolled, and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 511 carefully examined and compared, and find the same correctly enrolled, and have this day at 10 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 448 carefully examined and compared, and find the same correctly enrolled, and have this day at 11 o'clock a. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 220 carefully examined and compared, and find the same correctly enrolled, and have this day at 2:20 o'clock p. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 579 carefully examined and compared, and find the same correctly enrolled,

and have this day at 2:20 o'clock p. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 479 carefully examined and compared, and find the same correctly enrolled, and have this day at 2:20 o'clock p. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 606 carefully examined and compared, and find the same correctly enrolled, and have this day at 2:20 o'clock p. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee Room,

Austin, Texas, March 12, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had Senate Bill No. 596 carefully examined and compared, and find the same correctly enrolled, and have this day at 5:00 o'clock p. m. presented the same to the Governor for his approval.

WITT, Chairman.

Committee on Engrossed Bills.

Committee Room,

Austin, Texas, March 11, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 612 carefully examined and compared, and find the same correctly engrossed.

WESTBROOK, Chairman.

Committee Reports.

Committee Room,

Austin, Texas, March 11, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 116, A bill to be entitled

"An Act to amend Chapter 6, Title 93, Revised Civil Statutes of Texas, 1925, and Chapter 5, Title 14, Revised Criminal Statutes of Texas, 1925, relating to public weighers, by amending Articles 5680, 5681, 5683, 5688, 5689, 5691, 5694, 5695, 5697, 5704; repealing Article 5702 and 5692 in Chapter 6, Title 93, Revised Civil Statutes of Texas, 1925, and amending Article 1052; repealing Article 1047, adding Article 1052a, 1052b, 1052c, 1052d, 1052e, to Chapter 5, Title 14, Revised Criminal Statutes of Texas, 1925; providing the holding of one Section or provision of this Act unconstitutional shall not invalidate any other section or provision; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and that it be printed in the Journal but not otherwise.

WIRTZ, Chairman.

By Hines et al. H. B. No. 116.

A BILL
To Be Entitled

An Act to amend Chapter 6, Title 93, Revised Civil Statutes of Texas, 1925, and Chapter 5, Title 14, Revised Criminal Statutes of Texas, 1925, relating to public weighers, by amending Articles 5680, 5681, 5683, 5688, 5689, 5691, 5694, 5695, 5697, 5704; repealing Articles 5702 and 5692, in Chapter 6, Title 93, Revised Civil Statutes of Texas, 1925, and amending Article 1052; repealing Article 1047, adding Articles 1052a, 1052b, 1052c, 1052d, 1052e, to Chapter 5, Title 14, Revised Criminal Statutes of Texas, 1925; providing the holding of one Section or provision of this Act unconstitutional shall not invalidate any other Section or provision; and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That from and after the passage of this Act Articles 5680, 5681, 5683, 5688, 5689, 5691, 5694, 5695, 5697, 5704 of Chapter 6, Title 93, Revised Civil Statutes of Texas of 1925, be amended; that Article 5702 and 5692 of same Chapter and Title be repealed; that Arti-

cle 1052 of Chapter 5, Title 14, Revised Criminal Statutes of Texas of 1925, be amended; that Article 1047 of same Chapter and Title be repealed, and that Articles 1052a, 1052b, 1052c, 1052d, 1052e, be added thereto the Articles above mentioned to be amended and added, to read as follows:

"Article 5680. Any person elected by virtue of Article 5683, or appointed under Articles 5681 and 1052e of this Act shall be known as a public weigher and shall comply with the provisions of this Act or any other law regulating public weighers.

"Article 5681. The Governor is authorized and required to appoint in each port in this State as many public weighers as in his judgment he thinks necessary to carefully and accurately weigh all produce tendered for the purpose of weighing for shipment and commerce. A port as herein used shall be a locality where ships customarily stop for the purpose of loading and unloading commodities for transportation in interstate or foreign commerce. Provided, the Governor is authorized and required to appoint a sufficient number of public weighers in other cities in this State which according to the United States Census of 1920 had a population of not less than 100,000 people and not more than 150,000 people. Provided further, however, that nothing in this Act shall be construed to in any way abridge the right of the buyer and the seller, of any commodity, by contract, to specifically agree upon any person, firm or corporation, not a public weigher, to weigh any designated commodity and to abide by such weight, and in such event none of the provisions of this Act shall be applicable to the weighing and certification thereof.

"Article 5683. Election. In all counties in which there are no port, city or cities in which the Governor is authorized to appoint public weighers, there shall be elected at each general election a public weigher for each justice precinct in the manner and form governing the election of other precinct officers. The Commissioners' Court at the regular February term preceding the election may unite two or more justice precincts for the purpose of electing such public weighers.

"Article 5688. Each public weigher elected for a precinct shall execute and keep in force a bond in the sum of \$2,000.00 payable to the State of Texas, conditioned that he will accurately weigh, or measure all produce tendered to him for weighing or measuring, and that all certificates of weights issued by him shall represent true and accurate weight of the produce so weighed, and that he will comply with the laws governing public weighers, and that he will not permit any one to molest, mutilate or destroy any article, produce or commodity while in his possession. Such bond shall not be void on first recovery, but may be sued on by any person injured by such public weigher. Such bond shall be subject to the approval of the Commisisoners' Court of the county in which such public weigher resides. After such bond is filed, approved and recorded, as provided by Law, the county clerk shall immediately certify such action to the Commissioner of Agriculture.

"Article 5689. All public weighers, whether elected or appointed, and their deputies, before entering upon their duties as such shall take and subscribe to the official oath and file same with their bonds.

"Article 5691. Each public weigher, appointed or elected, shall have the right, and it shall be his duty to appoint a sufficient number of deputies to weigh all produce tendered for the purpose of weighing at any and all points within his jurisdiction. Such deputy before entering upon the duties of his office shall give a bond payable to the State of Texas in the penal sum of One Thousand (\$1,000.00) Dollars, conditioned that he will weigh accurately any commodity tendered to him for weighing, and shall comply with the terms and conditions of the bond given by the public weigher. Such bond given by the deputy shall be subject to the requirements of law relating to the bond of the public weigher. The deputy public weigher appointed under the provisions of this Article shall serve during the pleasure of the public weigher. The public weigher shall report to the Commissioner of Agriculture the name and address of each deputy appointed by him, and the place at which such deputy shall be located,

and make such other reports as shall be requested by the Commissioner of Agricultural from time to time.

"Article 5694. All public weighers in this State as provided for in this Act, shall be under the supervision of the Commissioner of Agriculture and all weights made by them shall be subject to his approval. In any case where any discrepancy arises as to weights or measures of cotton or other farm products, made between public weighers in different sections of this State, the difference shall be subject to review by the Commissioner; and any party who may be dissatisfied with the weights or measures of any public weigher, may appeal to the Commissioner, and have such cotton or other farm products reweighed or remeasured, for the purpose of ascertaining and deciding the correct weight and measure thereof. The scales of all public weighers weighing cotton and other products shall at all reasonable times be subject to inspection by the Commissioner, or his duly authorized representatives. Compliance with this Article shall be absolute prerequisite to the right to institute and maintain any action concerning the subject matter hereof, in any court of this State. The authority herein conferred upon the Commissioner, to review the weights, shall not be construed as in any manner affecting the selection of public weighers or of fixing the charge to the public of such public weighers.

"Article 5695. It shall be the duty of the Commissioner of Agriculture to carefully and accurately test all scales, weights, beams and measures used by the public weigher, at least once each year, and to issue a certificate of authority to all elected and appointed weighers and their deputies in this State, and at the time of issuing said certificate, and annually thereafter, collect a fee of Five (\$5.00) Dollars from each public weigher and a fee of Five (\$5.00) Dollars from each deputy public weigher; and such fee shall be paid by the Commissioner of Agriculture into the State Treasury.

"Article 5697. Seal. Every public weigher in this State shall provide himself with a seal, consisting of a star of five points, and shall have inscribed on the outer margin

thereof, "Public Weigher, Precinct No. _____, County, Texas," or "Public Weigher, City, Texas," or "Public Weigher, Port of _____, Texas,"

which seal shall be impressed upon each weight certificate issued by such public weigher, or deputy public weigher, on all weight sheets made out by them.

"Article 5704. Nothing in this Act shall prevent any person, firm or corporation from weighing any commodity which he may purchase or sell.

"Article 1052. It shall be unlawful for any person, firm corporation or association or persons of his or its agent or employee, except a public weigher or his deputy as provided for in this Act, to hold himself out as a public weigher or to act as a public weigher, or issue any certificate of weights or measures as such.

"Article 1052a. It shall be unlawful for any person in this State, except a public weigher or his deputy, acting either for himself, or as the agent, employee or representatives of any person, firm, corporation, or organization, to weigh or measure for hire any article, commodity or thing, or issue for hire a weight certificate therefor, for the purpose of sale or settlement.

Provided, that this Section shall not apply to railroads weighing freight for settlement of freight charges, or for information of consignees of freight as basis for settlement of bills or consignor. Provided further, that this Act shall not apply to the sale or purchase of any wool, mohair, livestock or other ranch products, and shall not apply to the weigher of any said wool, mohair, livestock or other ranch products, nor to the operation of any wool or mohair warehouse, nor to the operation of any stockyard where livestock are bought or sold.

"Article 1052b. No more than one pound of cotton shall be taken from any bale of cotton each time same is sampled either from one or both sides by any public weigher or deputy public weigher or other person.

Provided any public weigher, deputy public weigher or any other person who shall violate this Section shall be guilty of a misdemeanor

and on conviction shall be fined not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

"Article 1052c. It shall be unlawful for any public weigher or his deputy in this State to weigh any bale of cotton for the producer and make any deduction therefrom. Provided, however, when a bale of cotton is damp, wet, or damaged, it shall be the duty of the public weigher or his deputy to record on his weight certificate, in ink or other indelible substance, a notation that the cotton is damp, wet, or damaged. Provided, further, any public weigher or his deputy weighing cotton for shippers of buyers of cotton may make deductions for excess moisture, extra bands, bagging, or damage, and record only the net weight if the seller, shipper, or consignor shall make such agreement with the buyer or consignee at the time of the making of the sale or consignment.

Be it further provided, any public weigher, deputy public weigher or any other person violating any provision of this Article shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars. Each bale of cotton weighed and recorded contrary to the provisions of this Article shall constitute a separate offense.

"Article 1052d. Any public weigher, deputy public weigher, or any person acting either for himself or as the agent of any firm, corporation, copartnership or association, who shall violate any of the provisions of this Act for which no specific penalty is provided, shall on conviction be fined not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

"Article 1052e. Public weighers who have been selected under laws in effect prior to this Act shall be permitted to serve out unexpired terms; provided that in justice precincts where no public weigher has been elected the Commissioners' Court of such county shall appoint a public weigher to fill said office until the next general election, and until his successor has been elected and qualified, which public weigher and his deputies shall be governed by

the provisions of this Act. Provided, further, no public weigher shall be appointed by the Commissioners' Court in cities or ports where the Governor is authorized to appoint public weighers under this Act."

Sec. 2. That each Section of this Act, and every provision of each Section is hereby declared to be an independent Section or provision, and the holding of any Section, or provision of any Section to be void, ineffective, or unconstitutional for any cause whatever shall not be deemed to affect any other Section or provision thereof.

Sec. 3. The fact that there is now no adequate law for regulating public weighers, and the further fact that the laws now providing for the selection of public weighers are vague, indefinite and confusing, create an emergency and an imperative public necessity for the suspension of the Constitutional Rule requiring that all bills shall be read on three several days in each House, and the same is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Majority Report.

Committee Room,

Austin, Texas, March 11, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on Highways and Motor Traffic, to whom was referred

H. B. No. 389, A bill to be entitled "An Act to amend Sections 1, 4, 8, 14, and 15, of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature, 1927, and adding a new Section, Section 11-A, thereto, so as to more accurately define the term "Motor Bus Company" and better define the jurisdiction of the Railroad Commission of Texas, in the regulation of motor bus transportation; to provide for the regulation of motor bus terminals; to provide for the licensing of bus drivers and prescribe fees therefor; regulating the rates and the sale of tickets over bus lines; granting to the Railroad Commission the power to bring suits to procure injunctions for the enforcement of the provisions of said H. B. No. 50, the same being Chapter 270 of

the Acts of the Regular Session of the Fortieth Legislature; providing for penalties and punishment for the violation of the provisions of said Act, and for the violation of the rules and regulations of the Railroad Commission; providing for additional funds in the way of fees and licenses for the enforcement of said Act; requiring the sale of stock in a motor bus company to be approved by the Railroad Commission; providing for filing fees for applications for certificates of convenience and necessity, and fees for the lease, sale or transfer of such certificate or stock; providing for the issuance by the Commission of identification metal plates for each vehicle used as a motor bus and the collection of fees therefor; repealing all laws in conflict therewith; providing that the invalidity of any part of this Act shall not affect the validity of any other part; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

WITT, Chairman.

Minority Report.

Committee Room,

Austin, Texas, March 11, 1929.

Hon. Barry Miller, President of the Senate.

Sir: We, a minority of your Committee on Highways and Motor Traffic to whom was referred

H. B. No. 389, A bill to be entitled "An Act to amend Sections 1, 4, 8, 14, and 15, of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature, 1927, and adding a new Section, Section 11-A, thereto, so as to more accurately define the term "motor bus company" and better define the jurisdiction of the Railroad Commission of Texas, in the regulation of motor bus transportation; to provide for the regulation of motor bus terminals; to provide for the licensing of bus drivers and prescribe fees therefor; regulating the rates and the sale of tickets over bus lines; granting to the Railroad Commission the power to bring suits to procure injunctions for the enforcement of the provisions

of said H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature; providing for penalties and punishment for the violation of the provisions of said Act, and for the violation of the rules and regulations of the Railroad Commission; providing for additional funds in the way of fees and licenses for the enforcement of said Act; requiring the sale of stock in a motor bus company to be approved by the Railroad Commission; providing for filing fees for applications for certificates of convenience and necessity, and fees for the lease, sale or transfer of such certificate or stock; providing for the issuance by the Commission of identification metal plates for each vehicle used as a motor bus and the collection of fees therefor; repealing all laws in conflict therewith; providing for the invalidity of any part of this Act shall not affect the validity of any other part; and declaring an emergency."

Have had the same under consideration, and beg to differ with a majority of your Committee and report it back to the Senate with the recommendation that it do pass.

MOORE,
MARTIN,
STEVENSON,
WITT,
WILLIAMSON.

By Beck,

H. B. No. 389.

A BILL

To Be Entitled

An Act to amend Sections 1, 4, 8, 14, and 15, of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature, 1927, and adding a new Section, Section 11-A, thereto, so as to more accurately define the term "motor bus company" and better define the jurisdiction of the Railroad Commission of Texas, in the regulation of motor bus transportation; to provide for the regulation of motor bus terminals; to provide for the licensing of bus drivers and prescribe fees therefor; regulating the rates and the sale of tickets over bus lines; granting to the Railroad Commission the power to bring suits to procure injunc-

tions for the enforcement of the provisions of said H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature; providing for penalties and punishment for the violation of the provisions of said Act and for the violation of the rules and regulations of the Railroad Commission; providing for additional funds in the way of fees and licenses for the enforcement of said Act; requiring the sale of stock in a motor bus company to be approved by the Railroad Commission; providing for filing fees for applications for certificates of convenience and necessity, and fees for the lease, sale, or transfer of such certificate or stock; providing for the issuance by the Commission of identification metal plates for each vehicle used as a motor bus and the collection of fees therefor; repealing all laws in conflict therewith; providing that the invalidity of any part of this Act shall not affect the validity of any other part, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Sec. 1. That Section 1 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927, be amended so that the same shall hereafter read as follows:

"Section 1. (a) That the term "Corporation" when used in this Act means a corporation, company, association, or joint stock association.

(b) The term "Person" when used in this Act means an individual, firm, or copartnership.

(c) The term "Motor Bus Company" when used in this Act means every corporation or person as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled passenger vehicle not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, whether operating over fixed routes or fixed schedules, or otherwise; provided further, that the term "Motor Bus Com-

pany" as used in this Act shall not include corporations or persons, their lessees, trustees or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate or manage motor propelled passenger vehicles operated wholly within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise.

(d) The term "Public Highway" when used in this Act means every street, road or highway in this State.

(e) The term "Highway Commission" when used in this Act means the Board of Highway Commissioners of the State of Texas.

(f) The term "Commission" when used in this Act means the Railroad Commission of the State of Texas."

Sec. 2. Section 4 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927, is hereby amended so as to hereafter read as follows:

"Sec. 4. (a) The Commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate the public service rendered by every Motor Bus Company operating over the highways in this State, to fix or approve the maximum, or minimum, or maximum and minimum, fares, rates or charges of, and to prescribe all rules and regulations necessary for the government of, each Motor Bus Company; to prescribe the routes, schedules, service, and safety of operations of each such Motor Bus Company; to require the filing of such annual or other reports and of such other data by such Motor Bus Company as the Commission may deem necessary.

(b) The Commission is hereby vested with authority to supervise control and regulate all terminals of Motor Bus Companies, including the location of facilities and charges to be made Motor Bus Companies for the use of such terminal, or termini.

(c) The Commission is hereby vested with power and authority to require that each driver of a motor bus operated by any motor bus company, shall have a driver's license which license shall be issued by the Commission under such rules and regulations as it may prescribe; provided that every driver aforesaid

shall acquire a driver's license within 30 days after this Act takes effect, and shall annually thereafter, on or before the anniversary of the date of the original license, acquire a renewal thereof. Such license issued shall be for a term of one year. The Commission is hereby authorized to collect a fee of Three (\$3.00) Dollars, for each license issued or renewed, provided that the Commission may revoke any such license for cause after notice and public hearing. The Commission is empowered further to issue temporary licenses in cases of emergency for such term as the Commission may deem expedient. It shall be unlawful for any motor bus company to operate a bus in this State unless such motor bus is operated by a driver holding a license issued by the Commission.

(d) The Commission is further authorized and empowered to supervise and regulate Motor Bus Companies in all other matters affecting the relationship between such Motor Bus Companies and the traveling public that may be necessary to the efficient operation of this Law.

(e) It shall be unlawful for any Motor Bus Company to sell any tickets for the transportation of passengers within this State over any motor bus line at any rates other than the rates authorized and approved by the Commission under the terms of this Law; and it shall be unlawful for any booking agency or brokerage concern, directly or indirectly, to sell tickets for the transportation of passenger over any motor bus line, and no Motor Bus Company shall honor any ticket, or transport any passenger on any ticket so sold by any booking agency or brokerage concern.

(f) The Commission in prescribing and adopting routes and dealing with all other matters affecting the physical operation and control of Motor Bus Companies over the public highways, under the power and authority of this Act, shall give due and proper consideration, in forming its conclusions, and prescribing its orders and regulations to the general Highway Laws of this State, and to the orders, regulations, ordinances, or recommendations of the Highway Commission of Texas, or the Commissioners' Courts of any

county or counties, or the local government of any municipality, through or between which the routes for such Motor Bus Companies are prescribed and adopted."

Sec. 3. Section 8 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927, is hereby amended by adding thereto, Subdivisions e, f, and g, and shall hereafter read as follows:

"Sec. 8. No application for certificate shall be considered by said Commission except that it shall be reduced to writing and set forth the following facts:

(a) It shall contain the name and address of the applicant, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(b) The complete route or routes over which the applicant desires to operate, together with a brief description of each vehicle which the applicant intends to use, including the seating capacity thereof.

(c) A proposed time schedule and a schedule of rates showing the passenger fares to be charged between the several points or localities to be served.

(d) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or map shall be delineated the line or lines of any existing transportation company or companies over the highways serving such territory, with the names and addresses of the owner or owners thereof, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(e) Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes, and such fee shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(f) Every application filed with

the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity, or stock of any corporation owning or controlling a "Motor Bus Company" shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to the other fees and taxes, and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity, or stock of any corporation owning or controlling a "Motor Bus Company," is approved or not, such fee to be paid by the purchaser.

(g) No stock of any corporation owning and operating any "Motor Bus Company" shall be sold or transferred without first securing the approval of the Commission as provided for certificates of convenience and necessity, in Section 5 of House Bill No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927, and this paragraph shall be cumulative of that Section. Provided the provisions of this Sub-Section shall not apply if the stock to be sold constitute no more than 5 per cent of the total stock of the motor bus company, and the purchaser or group of purchasers does not already own or control more than 5 per cent of the total stock of the company; and provided further that the sale of such stock does not change the controlling interest in such Motor Bus Company."

Sec. 4. Amend H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927, by adding after Section 11 of the Act, and before Section 12 of the Act, a new Section, to be numbered 11-A as follows:

Sec. 11-A. It shall be unlawful for any bus company, as hereinbefore defined, to operate any motor bus within this State unless there shall be displayed and firmly fixed upon the front of such bus an identification metal plate to be furnished by the Commission. Each of such plates shall be so designed as to identify the vehicle on which same is attached as being a motor bus authorized to operate under the terms of this Law, and the rules and regulations of the Commission, and said plate

shall bear the number given to said vehicle by the Commission, and such other marks of identification as may be necessary. The identification plates provided for herein shall be in addition to the regular license plates required by Law. It shall be the duty of the Commission to provide such plates and each motor bus operating in this State shall display one of said plates within sixty days after this Act takes effect, and such plates shall be issued annually thereafter and attached to each motor bus not later than September first of each year. The Commission is authorized to collect from the applicant a fee of One (\$1.00) Dollar for each plate so issued and said fee to be deposited in the State Treasury to the credit of the "Motor Transportation Fund."

Sec. 5. Section 14 of House Bill No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927, is hereby amended so as to hereafter read as follows:

Section 14. (a) Any officer, agent, servant, or employee of any corporation and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not exceeding one year, or both such fine and imprisonment; and the violations occurring on each day shall each constitute a separate offense.

(b) Any officer, agent, servant, or employee of any motor bus company as heretofore defined, and any motor bus company, as heretofore defined, and/or the owner or operator, officer, servant, agent or employee, or any such owner or operator of any bus terminal who violates or fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the Commission, shall be subject to and shall pay a penalty not exceeding Five Hundred (\$500) Dollars, for each and every day of such violation. Such penalty to be recovered in any court of competent jurisdiction in Travis county, Texas, or in the county in which the viola-

tion occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney of the county in which the violation occurs, in the name of the State of Texas, and by direction of the Railroad Commission of Texas.

(c) Upon the violation of any provisions of this Chapter, or upon the violation of any rule, regulation, order or decree of the Commission, promulgated under the terms of this Act, any district court of Travis county, Texas or any district court of any county where such violation occurs, shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act, or from violating the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, or upon the application of any person authorized by it to act. Such relief may be granted in suits for penalties as provided in Subdivision (b) of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this Section.

(d) Any authorized inspector for the Commission shall have the power and authority to make arrests for the violation of this Act, coming under his observation, but such authority to make arrests shall be confined solely to the violations of this Act. Provided, further, that it shall be the duty of all law enforcement officers of this State to enforce the provisions of this Act."

Sec. 6. Section 15 of H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, is hereby amended so as to hereafter read as follows:

"Sec. 15. For the purpose of defraying the expense of administering this Act, every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of the issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year,

pay a special minimum fee of Ten (\$10.00) Dollars for each motor propelled vehicle, and a further fee, computed on the basis of Three (\$3.00) Dollars per passenger seat for the rated passenger capacity of the vehicle or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fees paid shall be proportionate to the remaining portion of the year ending August 31st following, but in no case less than one-fourth the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for additional motor propelled vehicles for less periods shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order.

All fees accruing hereunder and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer be deposited in the State Treasury at Austin and be credited to the fund to be known and designated as the "Motor Transportation Fund," and out of which all warrants for expenditures necessary in administering and enforcing this Act shall be paid."

Sec. 7. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 8. If any Section, subsection, sentence, clause or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

Sec. 9. The fact that the amendments and additions to H. B. No. 50, the same being Chapter 270 of the Acts of the Regular Session of the Fortieth Legislature of the State of Texas, 1927, contained in this Act are essential and necessary to the proper regulation of motor bus transportation, and the further fact that the legislative calendar is crowded, and the end of the present session of the Legislature draws near, create an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days be suspended, and that this Act shall take effect and be in full force from and

after its passage, and such rule is hereby suspended, and it is so enacted.

FORTY-SEVENTH DAY.

Senate Chamber,
Austin, Texas,

Wednesday, March 13, 1929.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Moore.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Pollard.
Gainer.	Russek.
Greer.	Small.
Hardin.	Stevenson.
Holbrook.	Thomason.
Hornsby.	Westbrook.
Hyer.	Williamson.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.

Absent—Excused.

Neal.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Messages From the Governor.

The Chair recognized the Doorkeeper, who introduced a messenger from the Governor with the following messages:

Executive Department,
Austin, Texas, March 7, 1929.
To the Honorable Senate of the State of Texas:

Senate Chamber.

Gentlemen:

The bill increasing the member-